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Atty Dkt.: 3774-4 Date: January 25, 2002

To: Examiner Unknown - Group: 1645  
Firm: USPTO  
Facsimile No.: (703) 308-4242  
From: Mary J. Wilson

Number of Pages (including cover sheet): 6  
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Tabitha A. Trice  
FACSIMILE OPERATOR

**ATTACHMENT/S: OFFICIAL PRELIMINARY AMENDMENT****MESSAGE:**

In re PATENT APPLICATION OF:

CHRISTOPHERS et al

Serial No.: 09/833,799

Filed: April 13, 2001

For: POLYPEPTIDES AND POLYPEPTIDE ANALOGUES

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## IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent Application of

Atty Dkt. 3774-4

C# M#

CHRISTOPHERS et al

Group Art Unit: 1845

Serial No. 09/833,799

Examiner: Unknown

Filed: April 13, 2001

Date: January 25, 2002

Title: POLYPEPTIDES AND POLYPEPTIDE ANALOGUES

Assistant Commissioner for Patents  
Washington, DC 20231

Sir:

**PRELIMINARY AMENDMENT**

This is a response/amendment/letter in the above-identified application and includes an attachment which is hereby incorporated by reference and the signature below serves as the signature to the attachment in the absence of any other signature thereon.

**Fees are attached as calculated below:**

Total effective claims after amendment	0	minus highest number	\$	0.00
previously paid for	20	(at least 20) =	0 x \$ 18.00	
Independent claims after amendment	0	minus highest number	\$	0.00
previously paid for	3	(at least 3) =	0 x \$ 84.00	
If proper multiple dependent claims now added for first time, add \$280.00 (ignore improper)			\$	0.00
Petition is hereby made to extend the current due date so as to cover the filing date of this paper and attachment(s) (\$110.00/1 month; \$400.00/2 months; \$920.00/3 months)			\$	0.00
Terminal disclaimer enclosed, add \$ 110.00			\$	0.00
<input type="checkbox"/> First/second submission after Final Rejection pursuant to 37 CFR 1.129(a) (\$740.00)			\$	0.00
<input type="checkbox"/> Please enter the previously unentered, filed				
<input type="checkbox"/> Submission attached				
<b>Subtotal</b>			\$	0.00
			-\$	0.00
If "small entity," then enter half (1/2) of subtotal and subtract				
<input type="checkbox"/> Applicant claims "small entity" status. <input type="checkbox"/> Statement filed herewith			\$	0.00
Rule 56 Information Disclosure Statement Filing Fee (\$180.00)			\$	0.00
Assignment Recording Fee (\$40.00)				0.00
Other:				
<b>TOTAL FEE ENCLOSED</b>			\$	0.00

The Commissioner is hereby authorized to charge any deficiency, or credit any overpayment, in the fee(s) filed, or asserted to be filed, or which should have been filed herewith (or with any paper hereafter filed in this application by this firm) to our Account No. 14-1140. A duplicate copy of this sheet is attached.

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NIXON & VANDERHYE P.C.  
By Atty: Mary J. Wilson, Reg. No. 32,955

Signature: Mary J. Wilson

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

In re PATENT APPLICATION OF

CHRISTOPHERS et al

Atty. Ref.: 3774-4

Serial No.: 09/833,799

Group Art Unit: 1645

Filed: April 13, 2001

Examiner: Unknown

For: POLYPEPTIDES AND POLYPEPTIDE ANALOGUES

\* \* \* \* \*

January 25, 2002

*AMDT/Blatun  
u/a  
Linda  
1/30/03***PRELIMINARY AMENDMENT**

Hon. Commissioner of Patents  
and Trademarks  
Washington, DC 20231

Sir:

Kindly preliminarily amend this application as  
follows.

**IN THE CLAIMS:**

✓ 21. (New) An isolated nucleic acid comprising the  
nucleotide sequence shown in Figure 13 or fragment thereof  
that encodes a polypeptide that possesses inhibitory  
activity against human leukocyte elastase.

22. (New) The isolated nucleic acid according to  
claim 21 wherein said polypeptide has the amino acid  
sequence shown in Figure 13.

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23. (New) An isolated nucleic acid encoding the amino acid sequence shown in Figure 13 or fragment of said sequence that possesses inhibitory activity against human leukocyte elastase.

24. (New) An expression vehicle comprising a nucleic acid comprising the nucleotide sequence shown in Figure 13 or fragment thereof that encodes a polypeptide that possesses inhibitory activity against human leukocyte elastase.

25. (New) An expression vehicle comprising a nucleic acid encoding the amino acid sequence shown in Figure 13 or fragment of said sequence that possesses inhibitory activity against human leukocyte elastase.

#### REMARKS

Favorable consideration of this application and entry of the foregoing amendments are respectfully requested.

The newly presented claims find support throughout the disclosure.

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An early and favorable Action on the merits is  
awaited.

Respectfully submitted,

NIXON &amp; VANDERHYE, P.C.

By Mary J. Wilson  
Mary J. Wilson  
Reg. No. 32,955

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#11

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

In re PATENT APPLICATION OF

CHRISTOPHERS et al

Atty. Ref.: 3774-4

Serial No.: 09/833,799

Group Art Unit: 1645

Filed: April 13, 2001

Examiner: Duffy, P.A.

For: POLYPEPTIDES AND POLYPEPTIDE ANALOGUES  
\* \* \* \* \*

January 29, 2003

**RESPONSE**Hon. Commissioner of Patents  
and Trademarks  
Washington, DC 20231

Sir:

This is in response to the Examiner's requirement for restriction, set forth in the Office Action dated October 29, 2002, in the above matter, the period for response having been extended up to January 29, 2003, by submission of the required petition and fee herewith. Applicants elect the subject matter of Group II (claims 8-13 and 15-18) for prosecution in this application, with the understanding that claims 21-25 (added by Preliminary Amendment on January 25, 2002) are included in Group II (a copy of the Preliminary Amendment and facsimile receipt evidencing the filing of same are attached). Should the Examiner take the view that claims 21-25 are not part of the elected invention, she is requested to issue a new restriction requirement that includes claims 21-25 and to set a new due date

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for response. Non-elected subject matter will be deleted in due course.

Respectfully submitted,

NIXON & VANDERHYE, P.C.

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Mary J. Wilson  
Reg. No. 32,955

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